

Key Messages for Oregon CZARA Discussion with State

General:

- Preventing and reducing coastal nonpoint source pollution, as the Coastal Nonpoint Program is designed to do, is very important to EPA and NOAA.
- Nonpoint source pollution is the most significant remaining water quality program in the state.
- Based on EPA and NOAA's settlement agreement with the Northwest Environmental Advocates, we need to announce our intent to approve or disapprove Oregon's Coastal Nonpoint Program by Nov. 15, 2013.
- EPA and NOAA recognize the complexities and political challenges Oregon faces in addressing the remaining conditions on its Coastal Nonpoint Program.
- However, we are very concerned about the progress of the state's work to address the three remaining conditions on its program and whether or not some of the directions the state is taking will enable it to get to full approval.
- While EPA and NOAA do not want to disapprove Oregon's Coastal Nonpoint Program and withhold funding for the state's Clean Water Act Section 319 and Coastal Zone Management Act Section 306 Programs, as CZARA directs, we are running out of options and time.
- We cannot delay penalties indefinitely if Oregon does not develop a fully approved program in the near future.
- Oregon should be a leader in watershed management and protecting important coastal resources like water quality, not the first state to have a disapproved Coastal Nonpoint Program.
- We hope we can find a path forward that will be feasible for Oregon but also satisfy CZARA.
- However, the state is going to have to step up and make a significant commitment to improving water quality...continuing the status quo isn't going to work.
- EPA and NOAA are currently considering our options regarding the impending settlement deadline.
- If we decide to renegotiate the deadline to give Oregon a little more time, we need to have something substantive to offer and this largely hinges on what the state is committed to doing.
- We also need to keep in mind that this will likely open the door for NWEA to insert additional requirements, such as agriculture, which aren't currently part of the settlement agreement.

Forestry:

- To address the remaining condition requiring additional management measures for forestry, Oregon needs to:
 - better protect medium, small, and non-fish bearing streams
 - better protect high-risk landslide areas
 - address the impacts of road density and maintenance, particularly legacy roads, more

- effectively; and
 - ensure adequate stream buffers for the application of certain chemicals.
- We've got a decade plus, of clear record on the inadequacies of the Oregon FPA for riparian and landslide prone area protection and for forest road water quality problems.
- We know the IR-TMDL approach is significantly behind schedule, in part, due to NWEA's temperature standard lawsuit, but also due to other pressure ODEQ is under and the complexity of the IR-TMDL approach itself.
- If the IR-TMDL approach won't be a feasible solution, the other alternative the state has is to pursue rule changes. ODF could either decide to do a rule change on its own or ODEQ (through the EQC) could petition the Board of Forestry and then ODF then does a rule change.
- The 2000 ODF report, led by Gov. Kitzhaber's sanctioned FPA Advisory Committee, could serve as a useful blueprint for rule changes moving forward. This is a document there was agreement back then.
- Landslide prone areas and forest roads are also partially addressed in FPAAC recommendations.
 - In addition, as part of the Mid-Coast TMDL, ODEQ has developed a viable conceptual approach for landslide prone areas it could continue to pursue.
- ODEQ's draft roads strategy, which they pulled back per OFIC/Timber industry pressure, would have a high likelihood of addressing both the CZARA forest road conditions and future Phase II forest roads requirements.

OSDS:

- We are disappointed to hear Oregon will no longer be pursuing a rule change to require point of sale inspections. While Oregon could use a voluntary approach to address this CZARA requirement, it can be challenging and only a few other states have successfully done so.
- Outside of a rule change Oregon could:
 - Demonstrate that most of the counties in the coastal nonpoint management area have ordinances requiring regular inspections of existing OSDS;
 - Demonstrate that most lending institutions voluntarily require point of sale inspections as a requirement for a loan;
 - Demonstrate that through a variety of state, local, and voluntary programs (including dedicated funding to support voluntary OSDS inspection programs) the state will reach most of the existing systems within the coastal nonpoint management area within 15 yrs.

New Development:

- Oregon also needs to finalize the TMDL Implementation Plan Guidance for Urban/Rural Areas and ensure that it will include practices consistent with the CZARA new development measure and that ODEQ has the authority necessary to require implementation of the new development measure, as

needed.

- This was still very unclear after staff reviewed the last draft of the guidance in July.
- In addition, Oregon needs a process and schedule for training and educating DMAs about the new guidance to ensure they will include practices consistent with the new development measure in their TMDL Implementation Plans.

Other Considerations:

- We also need to keep in mind that while NOAA and EPA may have given Oregon interim approval for its other conditions, including agriculture, those preliminary decisions are not final and have not gone out for public comment.
 - Therefore, we may need to work with the state to strengthen other aspects of their Coastal Nonpoint Program based on public comment received and ensure we have strong rationales in place for how the state has satisfied all conditions on Oregon's program.
- We also need to keep in mind what is going on concurrently in Washington that may have an impact on Oregon, especially related to agriculture issues.
- The Pacific Northwest Tribes are concerned about the adequacy of Federal programs, including CZARA, for sufficiently protecting water quality and salmon habitat. They are specifically focused on ensuring adequate riparian buffers, especially around agriculture activities.
- While EPA and NOAA have given Oregon preliminary approval on its CZARA agriculture measures, this decision is not final and has not gone out for public comment yet so Oregon may still need to strengthen its management of agriculture nonpoint source pollution too.